



Social Worker: Christopher Brown

Registration Number: SW99913

Fitness to Practise

Final Order Review Hearing:

Hearing Venue: Remote hearing

Date of Hearing: 16 June 2022

Final Order being reviewed:

Suspension Order – (expiring 14 July 2022)

Meeting Outcome: Removal Order (to take effect upon expiry of current final suspension order on 14 July 2022)

Introduction and attendees

1. This is the first review of a final 12-month suspension order originally imposed on 17 June 2021 (with effect from 15 July 2021) by a panel of adjudicators appointed by Social Work England.
2. This review was held remotely.
3. Mr Brown did not attend and was not represented.
4. Social Work England was represented by Mr East, presenting officer instructed by Capsticks LLP.
5. The panel of adjudicators conducting this review (the “panel”) and the other people involved in it were as follows:

Adjudicators	Role
Manuela Grayson	Chair
Sarah Redmond	Social Work Adjudicator

Hearings Team/Legal Adviser	Role
James Dunstan	Hearings Officer
Jo Cooper	Hearings Support Officer
Natalie Amey-Smith	Legal Adviser

Service of Notice:

6. Mr East submitted that the notice of hearing had been duly served. He informed the panel that notice of this hearing was sent to Mr Brown by electronic mail on 7 June 2022 to his electronic mail address on the Social Work Register. Mr East drew the panel’s attention to the following documents in the bundle:
 - A copy of the notice of substantive order review hearing dated 07 June 2022 and addressed to Mr Brown at his electronic mail address as it appears on the Social Work England Register.
 - An extract from the Social Work England Register detailing Mr Brown’s registered postal and electronic email address.

- A copy of a signed Statement of Service, on behalf of Social Work England, confirming that on 7 June 2022 the writer instructed Docucentre to send to Christopher Brown at his electronic mail address on 7 June 2022 the '*SOR Hearing Bundle, Notice of Hearing, Participation Form, Representation Form and Written Submissions Form.*'

7. Mr East told the panel that the notice of hearing and accompanying documents had also been sent to Mr Brown's postal address as provided on the Social Work Register. The letter was signed for on 13 June 2022 by '*RECEPTION*'. On 10 June 2022 an officer of Capsticks LLP spoke with a member of the public who said that they had received a letter which was not for them. They said the letter was addressed to Mr Brown. The member of the public confirmed that they worked for a self-storage company on an industrial estate. They said that they did not know a Mr Brown. They confirmed that there are mailboxes in the industrial estate. They checked mailbox M205 and confirmed that there was no customer in that unit. Mr East said whilst there were issues with the postal service, this did not impact on the case progressing as proper service had in any event been evidenced by using electronic mail.
8. The panel accepted the advice of the legal adviser in relation to service of notice which included reference to the Social Work England '*Guidance on service of notices and proceeding in the absence of the social worker*' dated 19 April 2022.
9. Having had regard to Rule 16 of the Social Work England Fitness to Practise Rules (amended 2022) (the "Rules") and all the information before it in relation to the service of notice, the panel was satisfied that notice of this hearing had been served on Mr Brown in accordance with Rules 44 and 45.

Proceeding with the final order review in the absence of Mr Brown:

10. The panel heard the submissions of Mr East on behalf of Social Work England. Mr East submitted that notice of this hearing had been duly served, no application for an adjournment had been made by Mr Brown and there was no guarantee that adjourning today's proceedings would secure his attendance. Mr East said that Mr Brown has not engaged with the Social Work England case review team and submitted that he is wilfully disengaging and has voluntarily absented himself. Mr East told the panel that Mr Brown has not engaged since 2019 and he has not demonstrated any willingness to do so and therefore he would not be at a disadvantage if the case proceeded today in his absence. Mr East submitted that there were public protection concerns arising from the allegations and therefore in the interests of fairness the matter should proceed.
11. The panel accepted the advice of the legal adviser in relation to the factors it should take into account when considering this application. This included reference to Rule 43 of the Rules and the cases of *R v Jones [2003] UKPC*, *General Medical Council v Adeogba [2016] EWCA Civ 162* and *Sanusi v GMC [2019]*. The legal adviser also referred the panel to the

'Guidance on service of notices and proceeding in the absence of the social worker' dated 19 April 2022, found on the Social Work England website.

12. The panel considered all the information before it and determined that it was reasonable and in the public interest to proceed with the hearing for the following reasons:

- Mr Brown has been served by electronic mail on 7 June 2022 with notice of today's hearing. Mr Brown is required to keep the Social Work England register up to date with his contact details. Mr Brown has a responsibility to engage with Social Work England in response to concerns about his fitness to practise and he accepted this responsibility when he registered.
- Mr Brown has not attended today although he had previously shown himself as able to communicate with his regulatory body as he had provided responses to the concerns in October 2019. The panel concluded that he had voluntarily and deliberately absented himself.
- Mr Brown has not sought an adjournment of the hearing and there was no indication from him that he would be willing or able to attend on an alternative date. He did not attend at the final hearing and therefore, re-listing this review would be unlikely to secure his attendance.
- The panel recognised that there may be some disadvantage to Mr Brown in not being able to give evidence or make oral submissions. However, the panel was content that Mr Brown had been provided with sufficient notice of the hearing and opportunity to attend or make written submissions.
- The panel considered the public interest need to deal with substantive order mandatory review matters expeditiously and determined that the hearing should proceed in the absence of Mr Brown.

Review of the current order:

13. This final order review hearing falls under The Children and Social Work Act 2017 (Transitional and Savings Provisions) (Social Workers) Regulations 2019. As a result, the review will be determined in accordance with Part 5 of those Regulations and Schedule 2 paragraph 15 of the Social Workers Regulations 2018 and Social Work England's Fitness to Practise Rules (as amended).

14. The current order is due to expire at the end of 14 July 2022.

The allegations found proved which resulted in the imposition of the final order were as follows:

15. The allegations found proved were:

Whilst registered as a Social Worker with the Health and Care Professions Council:

1. During your employment with the National Fostering Agency, when required to complete a file read for an assessment on two foster care applicants, you:

a. Did not conduct the file read.

b. Informed Colleague A that you had completed the file read.

2. Your actions in particular 1(b) were dishonest.

The final hearing panel on 14- 17 June 2021 determined the following with regard to impairment:

16. The panel conducting the final hearing made the following determination with regard to impairment:

'The panel found that Mr Brown's conduct met all four limbs of the test for impairment in CHRE v Grant as far as his past conduct was concerned in that:

- *his failure to conduct a file read and his attempt to conceal that failure by dishonesty had put services users (in this case, young and vulnerable children who had to live away from home) at unwarranted risk of harm.*
- *that conduct had been liable to bring the social work profession into disrepute.*
- *the panel considered that, by being dishonest, Mr Brown had breached the requirement to be honest and trustworthy, one of the fundamental tenets of the social work profession, as set out in the HCPC Standards of Conduct, Performance and Ethics; and*
- *Mr Brown had been found by the panel to have acted dishonestly.*

The panel found that the risk of Mr Brown's conduct being repeated risk was high because:

- *In his written responses to the allegations against him, Mr Brown had shown no remorse for his actions or insight into his failings and their consequences for service users, colleagues and the profession generally.*
- *Mr Brown had not accepted any responsibility for his actions. On the contrary, he had sought to blame his colleagues and the organisation which had engaged him for his failure to perform the required file read. Likewise, he did not acknowledge even the possibility that he may have acted dishonestly.*
- *Since his written responses in October 2019, Mr Brown has failed to engage with the fitness to practice process.*
- *Mr Brown's written responses provided no details of remediation and none have been received since those responses were submitted.*

- *Mr Brown had provided an email reference from a Senior Social Worker at the fostering agency for which Mr Brown was working in February 2019. However, as well as being over two years old, this reference speaks only as to the author's experience of Mr Brown's work as a freelance assessor. It does not refer to Mr Brown's honesty or trustworthiness. It indicates that the author is aware that Mr Brown is the subject of a regulatory investigation but it does not show that the author is aware of the nature or seriousness of the allegations against Mr Brown. In short, although it may serve as a testimonial to Mr Brown's competence as an assessor at the start of 2019, it does not assist the panel with regard to his honesty or with regard to his insight and remediation in respect of the events to which these proceedings relate.*

Given the high risk of Mr Brown's conduct being repeated, the panel found that all four limbs of the test for impairment in CHRE v Grant was met as far as his likely future conduct was concerned.

The panel noted that there were cases in which the courts found that the fitness to practice of a practitioner with a finding of misconduct by reason of a single instance of dishonesty had not been impaired. However, in those instances, the practitioners had taken responsibility for their actions, had shown full insight and had taken remedial action such that the court was satisfied that the risk of a repetition of their dishonest conduct was remote. However, as far as the panel could see, none of those factors were present in the case of Mr Brown.

In the circumstances, the panel found that Mr Brown's fitness to practice was impaired in relation to all three aspects of the concept of protection of the public as defined in s.37(2) of the Children and Social Work Act 2017 for the following reasons:

- *Mr Brown's actions had posed a risk to the safety and well-being of young and vulnerable service users who have to live away from home. Given the high risk of those actions being repeated, the risk was still present. Mr Brown's practice was therefore impaired in terms of maintaining the health, safety and well-being of the public.*
- *Mr Brown's practice was also impaired in terms of maintaining public confidence in social workers. Reasonable members of the public in possession of the facts of the present case would be concerned if Mr Brown were allowed to practice without a finding of impairment given his failure to conduct a file read, his attempt to conceal that failure by dishonesty and the high risk of that conduct being repeated.*
- *In the panel's view, Mr Brown had shown a disregard for professional standards, in particular, the need to be honest and trustworthy which was a fundamental requirement of all social workers, as evidenced by the presence of those qualities in the HCPC Standards of Conduct, Performance and Ethics. Mr Brown's dishonest conduct in relation to the assessment of the suitability of foster carers,*

undermined proper professional standards for social workers and his practice was therefore impaired in that respect.'

The final hearing panel on 14-17 June 2021 determined the following with regard to sanction:

17. The panel conducting the final hearing made the following determination with regard to sanction:

'The panel commenced its deliberations on sanction by first considering the mitigating and aggravating factors in the present case.

The panel identified the following aggravating factors:

- *Mr Brown's actions involved dishonesty in a professional context and had exposed young and vulnerable service users to a risk of harm.*
- *the high risk of those actions being repeated (as noted in the panel's finding on impairment).*
- *Mr Brown's complete lack of remorse, insight and remediation, his attempts to blame others for his own actions and his failure to reflect on the impact of those actions on service users, colleagues and the profession generally; and*
- *Mr Brown's lack of engagement with the fitness to practice process since October 2019.*

In terms of mitigating factors, the panel noted that:

- *the present case involved a single episode of dishonesty (although within that episode there were several occasions on which Mr Brown acted dishonestly).*
- *the panel had not been made aware of any previous regulatory findings against Mr Brown.*
- *up to October 2019 Mr Brown had engaged with the fitness to practice process and submitted written responses to the allegations against him; and*
- *Mr Brown had submitted a written reference which, although, as stated above, was not of assistance when considering impairment, nevertheless spoke to his competence as a Form F assessor.*

The panel then considered the suitability of each of the sanctions available to it in increasing order of severity.

The panel considered that taking no action was not viable in the present case given the seriousness of the concerns raised by Mr Brown's conduct and his lack of insight and remediation.

Similarly, the panel considered that it would not be appropriate to give advice or a warning in the present case. Neither of those measures would be adequate to protect the public from the risk of harm posed by Mr Brown's conduct and the risk of its being repeated or to maintain public confidence and proper professional standards, all of which required some meaningful restriction to be placed on his practice.

In relation to the possibility of imposing a conditions of practice order, the panel noted that:

- As stated in paragraph 84 of the Sanctions Guidance, conditions of practice orders are more appropriate to addressing a lack of competence or capacity than to addressing attitudinal or behavioural issues, such as dishonesty.*
- It would be difficult for the panel to formulate workable conditions of practice as it had no information concerning Mr Brown's present employment.*
- It was by no means clear that Mr Brown would be willing to work within the terms of a conditions of practice order or to cooperate with Social Work England in the administration of such an order given his complete lack of engagement since October 2019.*

Given the factors noted above, the panel considered that a conditions of practice order would be neither practicable nor appropriate.

With regard to the possibility of imposing a suspension order:

- The panel noted that Mr Brown had engaged with the fitness to practice process until October 2019 and had taken the time to submit a lengthy and detailed response to the allegations against him, which had been accompanied by numerous appendices. He had also provided a reference which confirmed his competence as a Form F assessor.*
- The panel considered that it was therefore possible that Mr Brown might, in the future, re-engage with the fitness to practice process. A period of suspension would afford him the opportunity and incentive to do so and to take steps to demonstrate insight into his actions and their consequences, undertake remedial activity and make a successful return to practice.*
- In terms of duration, the panel considered that a period of one year would be appropriate. The panel were of the view that that duration would be sufficient to maintain public confidence and proper professional standards and to protect the health, safety and well-being of service users and the public generally. As indicated in Social Work England's Sanctions Guidance, a suspension order of a longer duration would risk Mr Brown's becoming de-skilled, thus making a return to practice more difficult. A longer period of suspension might also serve as a disincentive to his re-engaging with the fitness to practice process.*

The panel also considered whether a removal order would be appropriate. However, they decided that such an order would deprive Mr Brown of any opportunity to re-

engage, remediate and return to practice and, for that reason, would be disproportionately severe.

FINAL ORDER: that Mr Brown be suspended from practising for a period of 12 months.

The panel considered that the adjudicators conducting the review of the above order would be assisted by Mr Brown re-engaging with the fitness to practice process and providing Social Work England and the adjudicators with a reflective piece which demonstrated Mr Brown's (i) acceptance of responsibility for his failure to perform the file read and his attempts to conceal that failure, (ii) insight into the actual and potential impacts of his actions on service users, colleagues and the social work profession; and (iii) understanding of the importance of maintaining professional standards. Written testimonials as to Mr Brown's honesty and integrity in the workplace would also be useful.'

Social Work England submissions:

18. Mr East set out the background to Mr Brown's case and referred the panel to the decisions made at the substantive fitness to practise hearing.
19. Mr East said that Social Work England's position remains as outlined in the notice of hearing letter sent to Mr Brown on 7 June 2022. The notice of hearing letter made the following written submissions on behalf of Social Work England:

'Subject to any further engagement prior to or at the review hearing, Social Work England will invite the Panel to consider the absence of engagement by the Social Worker and any evidence of a reflective piece, as suggested by the previous Panel. The previous Panel also directed the Social Worker to consider providing testimonials that related to his honesty and integrity in the workplace.

In the absence of clear evidence that the Social Worker has met the recommendations of the previous Panel in full, Social Work England invite the Panel to find that the Social Worker's fitness to practise continues to be impaired.

In the event that the Social Worker continues to disengage with the review process and does not provide any evidence of remediation, it would be open to the Panel to impose a Removal Order. The Social Worker's last engagement with the fitness to practise process dates back to October 2019.

If the Panel consider that a further opportunity to engage should be afforded to the Social Worker then they are invited to continue the Suspension Order for a further period of six months, for the same reasons given for imposing the previous Order. Social Work England invite the Panel to remind the Social Worker that if he continues to disengage then a subsequent Panel may consider removal.'

20. Mr East submitted that due to Mr Brown's non-engagement, the issues of insight, remediation, and repetition remain as they were at the final hearing and thus an order remains necessary under all three limbs of Social Work England's overarching objective.

Social Worker submissions:

21. Mr Brown did not provide written submissions. There has been no engagement from him in the regulatory process since October 2019.

Panel decision and reasons on current impairment:

22. In considering the question of current impairment, the panel undertook a comprehensive review of the final order in light of the current circumstances. It considered the decision of the previous panel. However, it has exercised its own judgement in relation to the question of current impairment.
23. The panel had regard to all the documentation before it, including the decision and reasons of the original panel. The panel also took account of the submissions made by Social Work England.
24. The panel heard and accepted the advice of the legal adviser. In reaching its decision, the panel was mindful of the need to protect the public and the wider public interest in declaring and upholding proper standards of behaviour and maintaining public confidence in the profession.
25. The panel first considered whether Mr Brown's fitness to practise remains impaired.
26. The panel took into account that since the final hearing in June 2021, Mr Brown has not engaged at all with the review process. Mr Brown has not provided any information or evidence which would demonstrate a change in circumstances since the final order was made. The panel noted that there was therefore no evidence of any reflection to show an understanding of why Mr Brown's practice fell below the expected standards and what he would do differently.
27. The panel considered that Mr Brown had been given every opportunity to engage and in not doing so, he had failed to provide details and evidence of any training undertaken, details of any transferable learning and had provided no further details of insight or remediation.
28. The panel took into account that the final decision panel had suggested that a future reviewing panel, *'would be assisted by Mr Brown re-engaging with the fitness to practice process and providing Social Work England and the adjudicators with a reflective piece which demonstrated Mr Brown's (i) acceptance of responsibility for his failure to perform the role and his attempts to conceal that failure, (ii) insight into the actual and potential impacts of his actions on service users, colleagues and the social work profession; and (iii) understanding of the importance of maintaining professional standards. Written testimonials as to Mr Brown's honesty and integrity in the workplace would also be useful'*.

29. The panel noted that Mr Brown had not provided any information relating to any of the suggestions made by the final hearing panel. The panel determined that in the light of having received no information or evidence since June 2021, Mr Brown's practice remained impaired. The panel considered that the risk of repetition of the conduct found proved remained, and that without adequate insight and remediation the risk to the public including the public interest remained.

Decision and reasons on sanction:

30. Having found Mr Brown's fitness to practise currently impaired, the panel then considered what, if any, sanction it should impose in this case. The panel had regard to all the information before it and accepted the advice of the legal adviser.
31. The panel considered the submissions made on behalf of Social Work England, in which the panel was invited to impose a removal order or consider an extension to the suspension order for six months. The panel considered the Sanctions Guidance published by Social Work England.
32. The panel was mindful that the purpose of any sanction is not to punish Mr Brown, but to protect the public and the wider public interest. The public interest includes maintaining public confidence in the profession and Social Work England as its regulator by upholding proper standards of conduct and behaviour. The panel applied the principle of proportionality by weighing Mr Brown's interests with the public interest and by considering each available sanction in ascending order of severity.

No Action

33. The panel concluded that, in view of the nature and seriousness of Mr Brown's impairment which has not been remedied, and in the absence of exceptional circumstances, it would be inappropriate to take no action. Furthermore, it would be insufficient to protect the public, maintain public confidence and uphold the reputation of the profession.

Advice or Warning

34. The panel then considered whether to issue advice or a warning. The panel noted that neither of these sanctions would restrict Mr Brown's ability to practise and they are therefore not appropriate where there is a current risk to public safety. In any event, the deficiencies in Mr Brown's practice had the potential to have wide-ranging adverse consequences and therefore some restriction on his practice is required. Therefore, the panel concluded that issuing advice or a warning would be inappropriate and insufficient to meet the public interest.

Conditions of Practice Order

35. The panel went on to consider a conditions of practice order. The panel took the view that Mr Brown's deficiencies are potentially capable of being remedied. However, given the continued lack of engagement by Mr Brown for almost three years, the panel had no

information on which it could formulate conditions which would be adequate to safeguard the public from his proven failings or be sufficient to meet the public interest.

Suspension Order

36. Having determined that a conditions of practice order would not be appropriate, the panel considered whether a suspension order would be the appropriate sanction. A suspension order would prevent Mr Brown from practising during the suspension period. The panel considered that Mr Brown had already been subject to a period of suspension since June 2021.
37. Although part of the purpose of a suspension order is to protect the public from social workers whose fitness to practise is impaired and to address the wider public interest, such orders are also intended to give social workers the opportunity to reflect on, develop insight into and remedy any failings in their practice which had impaired their fitness to practise.
38. Given Mr Brown's continued failure to engage with the fitness to practise process, to develop any insight into his failings and to take any steps to remedy them, the panel was of the view that extending the current period of suspension would be highly unlikely to result in Mr Brown taking any steps to acknowledge or address his impaired fitness to practise. A further period would serve no useful purpose given the opportunities which Mr Brown has had to address the findings made against him. The panel determined that a further suspension order would not be in the public interest, this case having been ongoing for several years with the regulatory findings occurring in 2018. The panel considered that this case requires a resolution.
39. For the reasons given above, the panel concluded that extending the current period of suspension would serve no useful purpose for Mr Brown and would be unlikely to result in his return to safe and effective practice.

Removal Order

40. The panel noted that a removal order is a sanction of last resort where there is no other means of protecting the public or the wider public interest. The panel took the view that a removal order would be the appropriate and proportionate sanction in this case. The panel noted that the initial concerns that gave rise to impairment were potentially remediable. However, the panel was of the view that the persistent lack of engagement by Mr Brown, since October 2019, meant that he had not shown any commitment to remaining on the register or continuing to uphold the standards required by social workers including engagement with the regulator.
41. The panel took into account that Mr Brown has chosen to ignore or fail to comply with suggestions given by the final decision panel. The panel considered that Mr Brown was aware that a removal order was an option available to the panel. Due notice of the potential for a removal order to be made had been set out in the notice of hearing letter sent to him on 7 June 2022. The panel took the view that it is not the job of the regulator to

coerce a social worker into complying and that Mr Brown as a regulated professional had a responsibility to Social Work England to engage. The panel understood that a removal order could have a detrimental effect on Mr Brown's personal and financial interests. However, on balance the risks to the public and public interest are such that they override Mr Brown's interests in this regard.

42. The panel therefore determined that in the circumstances, a removal order would be the appropriate and proportionate order.

Right of Appeal:

1. Under paragraph 16 (1) (b) of schedule 2, part 5 of the Social Workers Regulations 2018, the Social Worker may appeal to the High Court against:
 - a. the decision of adjudicators:
 - i. to make an interim order, other than an interim order made at the same time as a final order under paragraph 11(1)(b),
 - ii. not to revoke or vary such an order,
 - iii. to make a final order,
 - b. the decision of the regulator on review of an interim order, or a final order, other than a decision to revoke the order.
2. Under regulation 16 (2) schedule 2, part 5 of the Social Workers Regulations 2018 an appeal must be made within 28 days of the day on which the social worker is notified of the decision complained of.
3. Under regulation 9(4), part 3 (Registration of social workers) of the Social Workers Regulations 2018, this order can only be recorded on the register 28 days after the social worker was informed of the decision or, if the social worker appeals within 28 days, when that appeal is exhausted.
4. This notice is served in accordance with rules 44 and 45 of the Social Work England Fitness to Practise Rules 2019.